



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 12 2003

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Flannery
Environmental Manager
ISG Indiana Harbor, Inc.
3001 Dickey Road
East Chicago, IN 46312

Dear Mr. Flannery:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) CAA Docket No. CAA-05-2004 0003 which resolves violations of the Clean Air Act by ISG Indiana Harbor, Inc. (ISG) at its facility in East Chicago, Indiana. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on DEC 15 2003.

Pursuant to paragraph 28 of the CAFO, ISG must pay the civil penalty within 30 days of DEC 15 2003. Your check must display the case docket number, CAA-05-2004 0003, and the billing document number, 050304004.

Please direct any questions regarding this case to Cynthia A. King, Associate Regional Counsel, (312) 886-6831.

Sincerely yours,


Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

ISG Indiana Harbor, Inc.
East Chicago, Indiana,

Respondent.

) Docket No. ~~CAA-03~~ 2004 0003

)
) Consent Agreement and Final
) Order

CONSENT AGREEMENT AND FINAL ORDER

I. JURISDICTIONAL AUTHORITY

1. This is a civil administrative action instituted pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.34 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22 (the Consolidated Rules).

2. Section 22.13(b) of the Consolidated Rules provides that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CAFO).

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3. Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

4. Respondent is ISG Indiana Harbor, Inc. (ISG), which is and was at all times relevant to this CAFO, a company operating under the laws of the State of Indiana with a place of business at 3001 Dickey Road, East Chicago, Indiana 46312.

II. REGULATORY BACKGROUND

5. The Act establishes a comprehensive statutory scheme for the management of hazardous air pollutant emissions from facilities. Section 112 of the Act, 42 U.S.C. § 7412, requires that U.S. EPA promulgate emission standards for certain categories of sources of hazardous air pollutants. Pursuant to Section 112, 42 U.S.C. § 7412, U.S. EPA has promulgated National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants, (Subpart CCC NESHAP), which is codified at 40 C.F.R. Part 63, Subpart CCC.

6. The Subpart CCC NESHAP states at 40 C.F.R. § 63.1157(a)(1), that no owner or operator of an existing affected continuous or batch pickling line at a steel pickling facility shall discharge into the atmosphere any gases that contain hydrochloric acid (HCl) in a concentration greater than 18 parts per million by volume (ppmv).

7. Section 113 of the Act, 42 U.S.C. 7413, authorizes the Administrator of U.S. EPA to enforce violations of the Act and the regulations promulgated pursuant to it. Section 113 of the Act, 42 U.S.C. 7413, and the Debt Collection Improvement Act, 31 U.S.C. § 3701, authorize a civil penalty of up to \$27,500 per day against any person who violates any requirement of the Act.

III. STIPULATED FACTS

8. ISG is a "person" as defined at Section 302(e) of the Act, 42 U.S.C. § 7602(e).

9. ISG owns and operates a steel pickling facility at 3001 Dickey Road, East Chicago, Indiana (the facility).

10. The facility has the potential to emit 10 tons per year or more of hydrochloric acid, a hazardous air pollutant, and therefore the facility is a major source and subject to the requirements at 40 C.F.R. Part 63, Subpart CCC.

11. On December 6, 2002, ISG performed a stack test on its 66" Pickling Line stack to demonstrate compliance with 40 C.F.R. § 63.9(h).

12. On December 6, 2002, ISG emitted from its 66" Pickling Line stack hydrochloric acid at an average level of 72.4 ppmv.

13. The facility emitted from its 66" Pickling Line stack hydrochloric acid in excess of the concentration limit set forth in 40 C.F.R. § 63.1157(a)(1).

IV. TERMS OF SETTLEMENT

14. The parties agree that settling this action is in the public interest, that the entry of this CAFO without the filing of a Complaint or engaging in further litigation is the most appropriate means of resolving this matter, and that the purpose of this CAFO is to ensure compliance with the Act, Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413, and the terms of this CAFO;

NOW, THEREFORE, before the taking of any testimony, upon the alleged violations, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

15. This settlement is pursuant to, and in accordance with, 40 C.F.F. §§ 22.13(b) and 22.18(b)(2) and (3).

16. ISG admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations.

17. ISG consents to the issuance of this CAFO, the assessment of a civil penalty and the performance of a Supplemental Environmental Project (SEP), as outlined in Section VI of this CAFO.

18. ISG consents to all of the conditions in this CAFO.

19. ISG waives its right to a hearing as provided at 40 C.F.R. § 22.15(c).

20. ISG waives its right to contest the allegations in this CAFO, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

21. To the best of its knowledge, ISG certifies that it is complying fully with the Subpart CCC NESHAP.

22. This CAFO constitutes a settlement by U.S. EPA of all claims for civil penalties pursuant to Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413, for the violations alleged in the FOV and Section III of this CAFO. Nothing in this CAFO is intended to, nor shall be construed to, operate in any way to resolve any criminal liability of ISG arising from the violations alleged in this CAFO or liability related to violations of the Act. Except as to the alleged violations resolved by this CAFO, compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by U.S. EPA, and it is the responsibility of ISG to comply with such laws and regulations to the extent they are applicable.

23. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

24. Each party shall bear its own costs and attorneys' fees in connection with the action resolved by this CAFO.

25. This CAFO shall become effective on the date it is filed with the Regional Hearing Clerk, Region 5.

26. "Parties" shall mean U.S. EPA and ISG.

V. CIVIL PENALTY

27. Pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e), in determining the amount of the penalty assessed, U.S. EPA took into account (in addition to such other factors as justice may require), the size of ISG's business, the economic impact of the penalty on ISG's business, ISG's full compliance history and good faith efforts to comply, the duration of the violations, the economic benefit of noncompliance, and the seriousness of the violations. Based on an analysis of the above factors, including, ISG's cooperation, and agreement to perform a SEP, U.S. EPA has determined that an appropriate civil penalty to settle this action is Forty-Two Thousand Eight Hundred and Thirty Nine Dollars (\$42,839).

28. ISG must pay the \$42,839 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America" within thirty (30) days after the effective date of this CAFO.

29. ISG must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

30. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Cynthia A. King, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

31. This civil penalty is not deductible for federal tax purposes.

32. If ISG does not pay timely the civil penalty, or any stipulated penalties due under paragraph 45, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The

validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

33. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. ISG will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. ISG will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

VI. SUPPLEMENTAL ENVIRONMENTAL PROJECT

34. ISG has agreed to complete the following SEP: the installation of two Hudco Air Conveyor systems at ISG's Sinter Plant. The conveyers will result in a reduction of fugitive dust air emissions of approximately 30 lbs. per day or 7,500 lbs. over a 240 day operating year. A detailed Scope of Work is provided as Attachment A to this CAFO.

35. ISG must spend at least \$111,783 in the performance of this SEP.

36. ISG must ensure that the SEP is implemented within one year following the effective date of this CAFO and the SEP must be operated for two years.

37. ISG certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. ISG further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

38. ISG must maintain copies of the underlying data for all reports submitted to U.S. EPA according to this CAFO. ISG must provide the documentation of any underlying data to U.S. EPA within fourteen days of receipt of U.S. EPA's request for the information.

39. ISG shall submit annual reports to U.S. EPA describing the status of the SEP requirements, beginning January 1, 2004.

40. ISG must submit a SEP completion report to U.S. EPA within 60 days of the full implementation of the SEP. This report must contain the following information:

- a. detailed description of the SEP as completed;
- b. description of any operating problems and the actions taken to correct the problems;
- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. certification that ISG has completed the SEP in compliance with this CAFO; and
- e. description of the environmental and public health benefits resulting from the SEP (quantify

the benefits and pollution reductions, if feasible).

41. ISG must submit all notices and reports required by this CAFO by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

42. In each report that ISG submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

43. Following receipt of the SEP completion report described in paragraph 40 above, U.S. EPA must notify ISG in writing within thirty (30) days that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give ISG 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 45.

44. If U.S. EPA exercises option b. above, ISG may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of ISG's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give ISG a written decision on its objection. ISG will comply with any requirements that U.S. EPA imposes in its decision. If ISG does not complete the SEP as required by U.S. EPA's decision, ISG will pay stipulated penalties to the United States under paragraph 45 below.

45. If ISG violates any requirement of this CAFO relating to the SEP, ISG must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if ISG did not complete the SEP satisfactorily according to this CAFO, ISG must pay a stipulated penalty of \$58,662.
- b. If ISG did not complete the SEP satisfactorily, but U.S. EPA determines that ISG: (i) made good faith and timely efforts to complete the SEP; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount on the SEP, ISG will not be liable for any stipulated penalty.
- c. If ISG satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, ISG must pay a stipulated penalty of \$5,866.
- d. If ISG failed to submit timely the SEP completion report required by paragraph 40 above, ISG must pay a stipulated penalty of \$100 for each

day after the report was due until it submits the report.

e. If ISG failed to submit timely any other report required by paragraph 39 above, ISG must pay a stipulated penalty of \$100 for each day after the report was due until it submits the report.

46. U.S. EPA's determinations of whether ISG satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind ISG.

47. ISG must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. ISG will use the method of payment specified in paragraphs 28 through 30, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

48. Any public statement that ISG makes referring to the SEP must include the following or substantially equivalent language, "ISG undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against ISG for alleged violations of the Clean Air Act at its East Chicago, Indiana facility."

49. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

a. ISG must notify U.S. EPA in writing within 14 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), ISG's past and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. ISG must take all reasonable actions to avoid or minimize

any delay. If ISG fails to notify U.S. EPA according to this paragraph, ISG will not receive an extension of time to complete the SEP.

b. If the parties agree that circumstances beyond the control of ISG caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.

c. If U.S. EPA does not agree that circumstances beyond the control of ISG caused or may cause a delay in completing the SEP, U.S. EPA will notify ISG in writing of its decision and any delays in completing the SEP will not be excused.

d. ISG has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

VII. GENERAL PROVISIONS

50. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in Section III of this CAFO. Full payment of the penalty identified in paragraph 27 and completion of the SEP described in paragraph 34 shall resolve ISG's liability for these alleged violations and facts.

51. Nothing in this CAFO restricts U.S. EPA's authority to seek ISG's compliance with the Act and other applicable laws and regulations.

52. This CAFO does not affect ISG's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

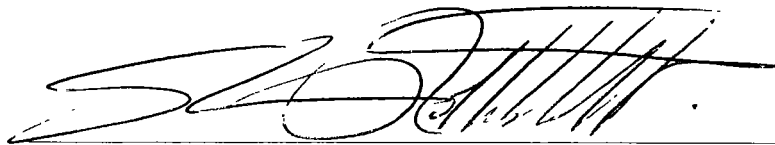
53. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine ISG's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

54. The terms of this CAFO bind the parties, and their successors, and assigns.

55. This CAFO constitutes the entire agreement between the parties.

**U.S. Environmental Protection
Agency, Complainant**

Date: 12/9/2003



Steven Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

ISG Indiana Harbor, Inc., Respondent

Date: 12/1/03

By: James' Flannery

James Flannery
Environmental Manager
ISG Indiana Harbor, Inc.

CONSENT AGREEMENT AND FINAL ORDER

ISG Indiana Harbor, Inc.

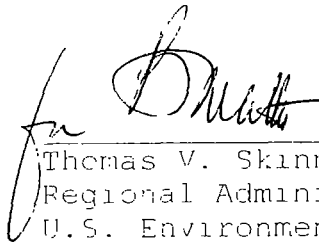
Docket No.

~~6AA-03~~ 7000 0003

Final Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk.

Dated: 12-12-03



Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

In the Matter of ISG Indiana Harbor, Inc.

Docket No: ~~0000~~ 2004 0003

CERTIFICATE OF FILING AND MAILING


I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Final Order (CAFO), was sent to ISG Indiana Harbor, Inc., was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that a second original of the CAFO was sent Certified Mail, Return Receipt Requested, to:

James Flannery
Environmental Manager
ISG Indiana Harbor, Inc.
3001 Dickey Road
East Chicago, Indiana 46312

I also certify that copies of the CAFO were sent by First Class Mail to:

David McIver, Chief
Office of Enforcement, Air Section
Indiana Department of Environmental Management
100 North Senate Avenue, Room 1001
Indianapolis, Indiana 46206-6015

on the 15th Day of December 2003.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0178 3576